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CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON DC 20044-4300

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AUG 27 2007

**OFFICE OF PETITIONS**

In re Application of :  
Marco Peretti : DECISION ON APPLICATION  
Application No. 09/884,921 : FOR  
Filed: June 21, 2001 : PATENT TERM ADJUSTMENT  
Atty Docket No. 702265.0007 :  
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)," filed June 12, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred fifty-six (756) days to eight hundred seventy-eight (878) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is EIGHT HUNDRED SEVENTY-EIGHT (**878**) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 17, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 756 days. On June 12, 2007, applicant timely submitted the instant application for patent term adjustment<sup>1</sup>. Applicant states that a Reply to the non-final Office action mailed October 19, 2005 was filed by facsimile on January 19,

<sup>1</sup> PALM records indicate that the Issue Payment was filed on August 17, 2007.

2006 and resubmitted on April 10, 2006. Accordingly, applicant argues that the periods of adjustment and reduction should be based on the response filing date of January 19, 2006. Thus, the period of adjustment would be 41 days and the period of reduction would be 0 days, not 81 days.

Applicant states that this application is not subject to a terminal disclaimer.

Applicant's documentation on application for patent term adjustment (and of record as submitted April 10, 2006) supports a conclusion that the reply should be treated as filed on January 19, 2006, not April 10, 2006. The examiner accepted the reply as timely filed. As the reply to the Office action mailed October 19, 2005, was sent to the Office by facsimile on January 19, 2006, this was within the three-month period set in 37 CFR 1.704(b). Accordingly, no reduction for applicant delay is warranted.

Further, pursuant to 37 CFR 1.702(a)(2) and 1.703(a)(3), a period of adjustment of 41 days is being entered for the Office taking more than four months, until June 29, 2006, to mail a response to the reply filed January 19, 2006.

It is noted that the Reply filed January 19, 2006 was not faxed to the official central facsimile number. Applicant is advised that a Reply sent to an improper facsimile number may in the future be considered a failure to engage in reasonable efforts to conclude processing or examination and/or may not give rise to an Office delay for failing to mail a response within 4 months.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 878 days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

# PALM INTRANET

## PTA Calculations for Application: 09/884921

Application Filing Date:	<b>06/21/2001</b>	PTO Delay (PTO):	<b>944</b>
Issue Date of Patent:		Three Years:	<b>0</b>
Pre-Issue Petitions:	<b>0</b>	Applicant Delay (APPL):	<b>188</b>
Post-Issue Petitions:	<b>0</b>	Total PTA (days):	<b>878</b>
PTO Delay Adjustment:	<b>122</b>		

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Number	Date	Contents Description	PTO	APPL	START
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55	08/23/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	81		
47	05/17/2007	MAIL NOTICE OF ALLOWANCE			
46	05/17/2007	MAIL EXAMINER'S AMENDMENT			
45	05/14/2007	ISSUE REVISION COMPLETED			
44	05/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	05/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
42	05/10/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
41	05/10/2007	DOCUMENT VERIFICATION			
40	05/10/2007	EXAMINER'S AMENDMENT COMMUNICATION			
39	05/10/2007	NOTICE OF ALLOWABILITY			
38	05/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	05/03/2007	DATE FORWARDED TO EXAMINER			
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35	04/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	11/27/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	11/27/2006	MAIL NON-FINAL REJECTION			
32	11/22/2006	NON-FINAL REJECTION			
31	11/07/2006	REQUEST FOR REFUND			
30	10/25/2006	DATE FORWARDED TO EXAMINER			
29	10/18/2006	AMENDMENT AFTER FINAL REJECTION		19	26
28	10/18/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

27	10/05/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
26	06/29/2006	MAIL FINAL REJECTION (PTOL - 326)			
25	06/26/2006	FINAL REJECTION			
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23	04/10/2006	RESPONSE AFTER NON-FINAL ACTION		81	22
22	10/19/2005	MAIL NON-FINAL REJECTION			
21	10/17/2005	NON-FINAL REJECTION			
20	08/05/2005	DATE FORWARDED TO EXAMINER			
19	07/22/2005	RESPONSE AFTER NON-FINAL ACTION		30	16
18	07/22/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	07/21/2005	CORRESPONDENCE ADDRESS CHANGE			
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15	03/16/2005	NON-FINAL REJECTION			
14	10/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
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11	07/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	06/10/2003	CORRESPONDENCE ADDRESS CHANGE			
9	09/29/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	03/02/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	10/26/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	10/23/2001	APPLICATION DISPATCHED FROM OIPE			
5	10/22/2001	APPLICATION IS NOW COMPLETE			
4	08/13/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	08/10/2001	CORRESPONDENCE ADDRESS CHANGE			
2	06/29/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
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#### **EXPLANATION OF PTA CALCULATION**

#### **EXPLANATION OF PTE CALCULATION**

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